

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1158
99TH GENERAL ASSEMBLY

2281H.02C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 21.771, 210.110, and 210.152, RSMo, and to enact in lieu thereof three new sections relating to child abuse, with an emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 21.771, 210.110, and 210.152, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 21.771, 210.110, and 210.152, to read as follows:

21.771. 1. There is established a joint committee of the general assembly to be known as the "Joint Committee on Child Abuse and Neglect" to be composed of seven members of the senate and seven members of the house of representatives. The senate members of the joint committee shall be appointed by the president pro tem and minority floor leader of the senate and the house members shall be appointed by the speaker and minority floor leader of the house of representatives. The appointment of each member shall continue during the member's term of office as a member of the general assembly or until a successor has been appointed to fill the member's place. No party shall be represented by more than four members from the house of representatives nor more than four members from the senate. A majority of the committee shall constitute a quorum, but the concurrence of a majority of the members shall be required for the determination of any matter within the committee's duties.

2. The joint committee shall:

(1) Make a continuing study and analysis of the state child abuse and neglect reporting and investigation system;

(2) Devise a plan for improving the structured decision making regarding the removal of a child from a home;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 (3) Determine the additional personnel and resources necessary to adequately protect the
18 children of this state and improve their welfare and the welfare of families;

19 (4) Address the need for additional foster care homes and to improve the quality of care
20 provided to abused and neglected children in the custody of the state;

21 (5) Determine from its study and analysis the need for changes in statutory law;

22 (6) Make any other recommendation to the general assembly necessary to provide
23 adequate protections for the children of our state; and

24 (7) Make recommendations on how to improve abuse and neglect proceedings including
25 examining the role of the judge, children's division, the juvenile officer, the guardian ad litem,
26 and the foster parents.

27 3. The joint committee shall meet within thirty days after its creation and organize by
28 selecting a chairperson and a vice chairperson, one of whom shall be a member of the senate and
29 the other a member of the house of representatives. The chairperson shall alternate between
30 members of the house and senate every two years after the committee's organization.

31 4. The committee shall meet at least quarterly. The committee may meet at locations
32 other than Jefferson City when the committee deems it necessary.

33 5. The committee shall be staffed by legislative personnel as is deemed necessary to assist
34 the committee in the performance of its duties.

35 6. The members of the committee shall serve without compensation but shall be entitled
36 to reimbursement for actual and necessary expenses incurred in the performance of their official
37 duties.

38 7. It shall be the duty of the committee to compile a full report of its activities for
39 submission to the general assembly. The report shall be submitted not later than the fifteenth of
40 January of each year in which the general assembly convenes in regular session and shall include
41 any recommendations which the committee may have for legislative action as well as any
42 recommendations for administrative or procedural changes in the internal management or
43 organization of state or local government agencies and departments. Copies of the report
44 containing such recommendations shall be sent to the appropriate directors of state or local
45 government agencies or departments included in the report.

46 8. The provisions of this section shall expire on ~~January 15, 2018.~~ **January 15, 2023.**

210.110. As used in sections 210.109 to 210.165, and sections 210.180 to 210.183, the
2 following terms mean:

3 (1) "Abuse", any physical injury, sexual abuse, or emotional abuse inflicted on a child
4 other than by accidental means by those responsible for the child's care, custody, and control,
5 except that discipline including spanking, administered in a reasonable manner, shall not be

6 construed to be abuse. **Victims of abuse shall also include any victims of sex trafficking or**
7 **severe forms of trafficking as those terms are defined in 22 U.S.C. 78 Section 7102(9)-(10);**

8 (2) "Assessment and treatment services for children under ten years old", an approach
9 to be developed by the children's division which will recognize and treat the specific needs of
10 at-risk and abused or neglected children under the age of ten. The developmental and medical
11 assessment may be a broad physical, developmental, and mental health screening to be
12 completed within thirty days of a child's entry into custody and every six months thereafter as
13 long as the child remains in care. Screenings may be offered at a centralized location and
14 include, at a minimum, the following:

15 (a) Complete physical to be performed by a pediatrician familiar with the effects of abuse
16 and neglect on young children;

17 (b) Developmental, behavioral, and emotional screening in addition to early periodic
18 screening, diagnosis, and treatment services, including a core set of standardized and recognized
19 instruments as well as interviews with the child and appropriate caregivers. The screening
20 battery may be performed by a licensed mental health professional familiar with the effects of
21 abuse and neglect on young children, who will then serve as the liaison between all service
22 providers in ensuring that needed services are provided. Such treatment services may include
23 in-home services, out-of-home placement, intensive twenty-four-hour treatment services, family
24 counseling, parenting training and other best practices.

25
26 Children whose screenings indicate an area of concern may complete a comprehensive, in-depth
27 health, psychodiagnostic, or developmental assessment within sixty days of entry into custody;

28 (3) "Central registry", a registry of persons where the division has found probable cause
29 to believe prior to August 28, 2004, or by a preponderance of the evidence after August 28, 2004,
30 or a court has substantiated through court adjudication that the individual has committed child
31 abuse or neglect or the person has pled guilty or has been found guilty of a crime pursuant to
32 section 565.020, 565.021, 565.023, 565.024, 565.050, 566.030, 566.060, or 567.050 if the victim
33 is a child less than eighteen years of age, or any other crime pursuant to chapter 566 if the victim
34 is a child less than eighteen years of age and the perpetrator is twenty-one years of age or older,
35 a crime under section 568.020, 568.030, 568.045, 568.050, 568.060, 568.080, 568.090, 573.023,
36 573.025, 573.035, 573.037, 573.040, 573.200, or 573.205, or an attempt to commit any such
37 crimes. Any persons placed on the registry prior to August 28, 2004, shall remain on the registry
38 for the duration of time required by section 210.152;

39 (4) "Child", any person, regardless of physical or mental condition, under eighteen years
40 of age;

41 (5) "Children's services providers and agencies", any public, quasi-public, or private
42 entity with the appropriate and relevant training and expertise in delivering services to children
43 and their families as determined by the children's division, and capable of providing direct
44 services and other family services for children in the custody of the children's division or any
45 such entities or agencies that are receiving state moneys for such services;

46 (6) "Director", the director of the Missouri children's division within the department of
47 social services;

48 (7) "Division", the Missouri children's division within the department of social services;

49 (8) "Family assessment and services", an approach to be developed by the children's
50 division which will provide for a prompt assessment of a child who has been reported to the
51 division as a victim of abuse or neglect by a person responsible for that child's care, custody or
52 control and of that child's family, including risk of abuse and neglect and, if necessary, the
53 provision of community-based services to reduce the risk and support the family;

54 (9) "Family support team meeting" or "team meeting", a meeting convened by the
55 division or children's services provider in behalf of the family and/or child for the purpose of
56 determining service and treatment needs, determining the need for placement and developing a
57 plan for reunification or other permanency options, determining the appropriate placement of the
58 child, evaluating case progress, and establishing and revising the case plan;

59 (10) "Investigation", the collection of physical and verbal evidence to determine if a
60 child has been abused or neglected;

61 (11) "Jail or detention center personnel", employees and volunteers working in any
62 premises or institution where incarceration, evaluation, care, treatment or rehabilitation is
63 provided to persons who are being held under custody of the law;

64 (12) "Neglect", failure to provide, by those responsible for the care, custody, and control
65 of the child, the proper or necessary support, education as required by law, nutrition or medical,
66 surgical, or any other care necessary for the child's well-being. **Victims of neglect shall also**
67 **include any victims of sex trafficking or severe forms of trafficking as those terms are**
68 **defined in 22 U.S.C. 78 Section 7102(9)-(10);**

69 (13) "Preponderance of the evidence", that degree of evidence that is of greater weight
70 or more convincing than the evidence which is offered in opposition to it or evidence which as
71 a whole shows the fact to be proved to be more probable than not;

72 (14) "Probable cause", available facts when viewed in the light of surrounding
73 circumstances which would cause a reasonable person to believe a child was abused or
74 neglected;

75 (15) "Report", the communication of an allegation of child abuse or neglect to the
76 division pursuant to section 210.115;

77 (16) "Those responsible for the care, custody, and control of the child", ~~[those included~~
78 ~~but not limited to]~~ **includes, but is not limited to:**

79 (a) The parents or ~~[guardian]~~ **legal guardians** of a child[;] ;

80 (b) Other members of the child's household~~[, or]~~ ;

81 (c) Those exercising supervision over a child for any part of a twenty-four-hour day~~[-~~
82 ~~Those responsible for the care, custody and control shall also include]~~ ;

83 (d) Any ~~[adult]~~ **person** who[;] **has access to the child** based on relationship to the
84 parents of the child[;] **or** members of the child's household or the family~~[, has access to the child]~~
85 **; or**

86 (e) **Any person who takes control of the child by deception, force, or coercion.**

210.152. 1. All identifying information, including telephone reports reported pursuant
2 to section 210.145, relating to reports of abuse or neglect received by the division shall be
3 retained by the division and removed from the records of the division as follows:

4 (1) For investigation reports contained in the central registry, identifying information
5 shall be retained by the division;

6 (2) (a) For investigation reports initiated against a person required to report pursuant to
7 section 210.115, where insufficient evidence of abuse or neglect is found by the division and
8 where the division determines the allegation of abuse or neglect was made maliciously, for
9 purposes of harassment or in retaliation for the filing of a report by a person required to report,
10 identifying information shall be expunged by the division within forty-five days from the
11 conclusion of the investigation;

12 (b) For investigation reports, where insufficient evidence of abuse or neglect is found
13 by the division and where the division determines the allegation of abuse or neglect was made
14 maliciously, for purposes of harassment or in retaliation for the filing of a report, identifying
15 information shall be expunged by the division within forty-five days from the conclusion of the
16 investigation;

17 (c) For investigation reports initiated by a person required to report under section
18 210.115, where insufficient evidence of abuse or neglect is found by the division, identifying
19 information shall be retained for five years from the conclusion of the investigation. For all other
20 investigation reports where insufficient evidence of abuse or neglect is found by the division,
21 identifying information shall be retained for two years from the conclusion of the investigation.
22 Such reports shall include any exculpatory evidence known by the division, including
23 exculpatory evidence obtained after the closing of the case. At the end of such time period, the
24 identifying information shall be removed from the records of the division and destroyed;

25 (d) **For investigation reports where the identification of the specific perpetrator or**
26 **perpetrators can not be substantiated and the division has specific evidence to determine**

27 **that a child was abused or neglected, the division shall retain the report and all identifying**
28 **information but shall not place an unknown perpetrator on the central registry. The**
29 **division shall retain all identifying information for the purpose of utilizing such**
30 **information in subsequent investigations or family assessments of the same child, the**
31 **child's family, or members of the child's household. The division shall retain and disclose**
32 **information and findings in the same manner as the division retains and discloses family**
33 **assessments. If the division made a finding of abuse or neglect against an unknown**
34 **perpetrator prior to August 28, 2017, the division shall remove the unknown perpetrator**
35 **from the central registry but shall retain and utilize all identifying information as**
36 **otherwise provided in this section;**

37 (3) For reports where the division uses the family assessment and services approach,
38 identifying information shall be retained by the division;

39 (4) For reports in which the division is unable to locate the child alleged to have been
40 abused or neglected, identifying information shall be retained for ten years from the date of the
41 report and then shall be removed from the records of the division.

42 2. Within ninety days, or within one hundred twenty days in cases involving sexual
43 abuse, or until the division's investigation is complete in cases involving a child fatality or
44 near-fatality, after receipt of a report of abuse or neglect that is investigated, the alleged
45 perpetrator named in the report and the parents of the child named in the report, if the alleged
46 perpetrator is not a parent, shall be notified in writing of any determination made by the division
47 based on the investigation. The notice shall advise either:

48 (1) That the division has determined by a probable cause finding prior to August 28,
49 2004, or by a preponderance of the evidence after August 28, 2004, that abuse or neglect exists
50 and that the division shall retain all identifying information regarding the abuse or neglect; that
51 such information shall remain confidential and will not be released except to law enforcement
52 agencies, prosecuting or circuit attorneys, or as provided in section 210.150; that the alleged
53 perpetrator has sixty days from the date of receipt of the notice to seek reversal of the division's
54 determination through a review by the child abuse and neglect review board as provided in
55 subsection 4 of this section; ~~or~~

56 (2) That the division has not made a probable cause finding or determined by a
57 preponderance of the evidence that abuse or neglect exists; **or**

58 **(3) The division has been unable to determine the identity of the perpetrator of the**
59 **abuse or neglect. The notice shall also inform the child's parents and legal guardian that**
60 **the division shall retain, utilize, and disclose all information and findings as provided in**
61 **family assessment and services cases.**

62 3. The children's division may reopen a case for review ~~[at the request of the alleged~~
63 ~~perpetrator, the alleged victim, or the office of the child advocate]~~ if new, specific, and credible
64 evidence is obtained ~~[that the division's decision was based on fraud or misrepresentation of~~
65 ~~material facts relevant to the division's decision and there is credible evidence that absent such~~
66 ~~fraud or misrepresentation the division's decision would have been different. If the alleged~~
67 ~~victim is under the age of eighteen, the request for review may be made by the alleged victim's~~
68 ~~parent, legal custodian, or legal guardian. All requests to reopen an investigation for review shall~~
69 ~~be made within a reasonable time and not more than one year after the children's division made~~
70 ~~its decision. The division shall not reopen a case for review based on any information which the~~
71 ~~person requesting the review knew, should have known, or could by the exercise of reasonable~~
72 ~~care have known before the date of the division's final decision in the case, unless the person~~
73 ~~requesting the review shows by a preponderance of the evidence that he or she could not have~~
74 ~~provided such information to the division before the date of the division's final decision in the~~
75 ~~case. Any person, other than the office of the child advocate, who makes a request to reopen a~~
76 ~~case for review based on facts which the person knows to be false or misleading or who acts in~~
77 ~~bad faith or with the intent to harass the alleged victim or perpetrator shall not have immunity~~
78 ~~from any liability, civil or criminal, for providing the information and requesting that the division~~
79 ~~reopen the investigation. Any person who makes a request to reopen an investigation based on~~
80 ~~facts which the person knows to be false shall be guilty of a class A misdemeanor. The~~
81 ~~children's division shall not reopen an investigation under any circumstances while the case is~~
82 ~~pending before a court of this state nor when a court has entered a final judgment after de novo~~
83 ~~judicial review pursuant to this section].~~

84 4. Any person named in an investigation as a perpetrator who is aggrieved by a
85 determination of abuse or neglect by the division as provided in this section may seek an
86 administrative review by the child abuse and neglect review board pursuant to the provisions of
87 section 210.153. Such request for review shall be made within sixty days of notification of the
88 division's decision under this section. In those cases where criminal charges arising out of facts
89 of the investigation are pending, the request for review shall be made within sixty days from the
90 court's final disposition or dismissal of the charges.

91 5. In any such action for administrative review, the child abuse and neglect review board
92 shall sustain the division's determination if such determination was supported by evidence of
93 probable cause prior to August 28, 2004, or is supported by a preponderance of the evidence after
94 August 28, 2004, and is not against the weight of such evidence. The child abuse and neglect
95 review board hearing shall be closed to all persons except the parties, their attorneys and those
96 persons providing testimony on behalf of the parties.

97 6. If the alleged perpetrator is aggrieved by the decision of the child abuse and neglect
98 review board, the alleged perpetrator may seek de novo judicial review in the circuit court in the
99 county in which the alleged perpetrator resides and in circuits with split venue, in the venue in
100 which the alleged perpetrator resides, or in Cole County. If the alleged perpetrator is not a
101 resident of the state, proper venue shall be in Cole County. The case may be assigned to the
102 family court division where such a division has been established. The request for a judicial
103 review shall be made within sixty days of notification of the decision of the child abuse and
104 neglect review board decision. In reviewing such decisions, the circuit court shall provide the
105 alleged perpetrator the opportunity to appear and present testimony. The alleged perpetrator may
106 subpoena any witnesses except the alleged victim or the reporter. However, the circuit court
107 shall have the discretion to allow the parties to submit the case upon a stipulated record.

108 7. In any such action for administrative review, the child abuse and neglect review board
109 shall notify the child or the parent, guardian or legal representative of the child that a review has
110 been requested.

 Section B. Because immediate action is necessary to prevent any loss of federal funding
2 for child welfare services in Missouri, the repeal and reenactment of section 210.110 of section
3 A of this act is deemed necessary for the immediate preservation of the public health, welfare,
4 peace, and safety, and is hereby declared to be an emergency act within the meaning of the
5 constitution, and the repeal and reenactment of section 210.110 of section A of this act shall be
6 in full force and effect upon its passage and approval.

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